

**DURHAM, NORTH CAROLINA
MONDAY, NOVEMBER 3, 2003
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Absent: None.

Also present: City Manager Marcia Conner, City Attorney Henry Blinder, City Clerk D. Ann Gray and Deputy City Clerk Linda Bratcher.

Mayor Bell called the meeting to order with a moment of silent meditation and the Pledge of Allegiance.

The Mayor read proclamations declaring November 2003 as Home and Hospice Care Month and November 9-15, 2003 as Durham Recycles Week.

Council Member Stith announced his attendance at the ribbon cutting for the first Connecting Community site at W. D. Hill and recognized Girl Scout Troop 798.

Council Member Clement saluted Police Officer David Addison for receiving the NC CrimeStoppers Coordinator of the Year award, commended NCCU, DPS and SECME for starting the Durham Early College Program, and thanked the Public Affairs staff for the power point demonstration shown to 3rd graders from Merrick Moore Elementary School on City government during their recent visit to City Hall.

Council Member Best expressed a concern with the timeframe in replacing the heating and air system at Fire Station #1 requesting the City Manager to provide a timeline for this issue as a priority item at the November 6, 2003 Work Session.

Mayor Pro Tempore Cheek made comments on his attendance at the Sister Cities 14th Annual Meeting.

Mayor Bell reminded Council to complete and return the 7-Stars Campaign form by November 14, 2003.

Mayor Bell asked for priority items from the City Manager, City Attorney and City Clerk. City Manager Conner requested that GBA #39 [Zoning Text Amendment - Wireless Communication Facilities] be postponed until December 15, 2003 City Council Meeting; reminded Council that action needs to be taken on the 2nd and 3rd motions for Consent Agenda #45 [Economic Development Loan Programs]; provided Council with a draft letter for Consent Agenda #48 [Thomas Sheppard] in response to contacting the congressional delegation regarding the impact HB-4 will have on the funding for childcare slots and after school programs and requested Consent Agenda #46 [Zuri and Associates, Inc. – Request Loan Prepayment] be referred to the November 17, 2003 City Council Meeting. [No priority items from the City Attorney and City Clerk.]

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Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. Items 6 [Major Site Plan – Allendown Retail]; 14 [Workforce Investment Act Adult & Dislocated Work Services – Employment Security Commission]; 16 [Façade Grant Program & Guidelines]; 21 [Lease of 106 Morris Street to Sebbat Zere dba Selam Convenience Store]; 24 [NC 147 Bicycle/Pedestrian Bridge]; 28 [Small Business Loan Program]; 45 [Economic Development Loan Program] and 47 [FEMA] were pulled from the Consent Agenda.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to approve the Consent Agenda as amended was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: RECREATION ADVISORY COMMITTEE - APPOINTMENT

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to appoint Mary Winter to fill one (1) vacancy on the Recreation Advisory Committee with a term expiring on August 8, 2006 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM BOARD OF ADJUSTMENT - RECEIPT AND ACCEPTANCE OF APPLICATIONS

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive and accept applications for a citizens to fill one (1) vacancy on the Durham Board of Adjustment for an Alternate Member with a term expiring on June 30, 2006 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: CABLE TV ADVISORY BOARD - REAPPOINTMENTS

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to reappoint Warren L. Herndon, Kevin C. Young and James Edward Vaughan to the Cable TV Advisory Board with terms expiring October 31, 2004 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: CONTRACTS

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute contracts as listed; and

To authorize the City Manager to make changes to contracts before execution as long as the changes do not increase the dollar amount and remain consistent with the general intent of the contracts was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Contractor	Contract Description	Dept	CT Amt
Eric Spencer	Sport Official	P&R	\$ 1,000.00
TROSA Inc	Entertainment Senior Christmas Party	P&R	\$ 150.00
Celeste Happoldt	Computer Instruction	P&R	\$ 2,410.00
Robert Mitchell	Sport Official	P&R	\$ 2,000.00
Paul Conroy	Sport Official	P&R	\$ 1,500.00
Michelle Imgram	Computer Instruction	P&R	\$ 960.00
Jeffrey Norris	Sport Official	P&R	\$ 2,500.00
Bradlee Armstrong	Sport Official	P&R	\$ 1,700.00
Gary Thompson	Sport Official	P&R	\$ 1,500.00
Raymond Alston	Sport Official	P&R	\$ 1,750.00
Mark Webb	Sport Official	P&R	\$ 1,500.00
Johnnie Fisher	Sport Official	P&R	\$ 1,000.00
Melvin Woodruff	Sport Official	P&R	\$ 1,500.00
Anthony Pough	Sport Official	P&R	\$ 2,500.00
Abosede Copeland	Computer Instruction	P&R	\$ 960.00
Ruth Smith	Computer Instruction	P&R	\$ 960.00
Mildred Foster	Gate Opener-Old Farm	P&R	\$ 800.00
Cary Psychology	Evaluations	Emgy Comm	\$ 11,000.00
Loomis Fargo	Courier Service	Finance	\$ 8,196.00
Waste Industries	Container Service for South Durham Water Reclamation Facility	Purchasing	\$ 25,177.50
The PROUD Program	After school programs	Housing	\$ 8,000.00
Center for Documentary Studies	After school programs	Housing	\$ 11,427.00
SEEDS	After school programs	Housing	\$ 6,000.00

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SUBJECT: STREET CLOSING (SC03-04) –0.0328 ACRES (1,430 SQUARE FEET) WITHIN PUBLIC RIGHTS-OF-WAY OF AN UNNAMED ALLEY WEST OF NORTH ROXBORO ROAD

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution to set the public hearing on the proposed public alley right-of-way closing and recombination for November 17, 2003 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Resolution #9050

SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING PETITIONED IMPROVEMENT - CURB, GUTTER AND PAVING, WATER AND SEWER LATERALS ON BRENROSE CIRCLE

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to accept a certificate of sufficiency from the Manager of Engineering for the petition for Curb, Gutter and Paving, Water and Sewer Laterals improvements on Brenrose Circle from Hillsborough Road (US 70) to end of cul-de-sac; and

To adopt a resolution setting a public hearing for December 15, 2003 to consider ordering the improvement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: SETTING A PUBLIC HEARING TO CONSIDER ORDERING IMPROVEMENT UNDER E.A.A. – SEWER MAIN ON MARYWOOD DRIVE

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt a resolution setting a public hearing for December 15, 2003 to consider ordering Sewer Main improvement on Marywood Drive from Park Place to East Property Line of Tax Map 773-01-05A was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: WATER EXTENSION AGREEMENT WITH OLD OXFORD ROAD, LLC - CARDINAL SELF STORAGE

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a Water Extension Agreement with Old Oxford Road, LLC to serve Cardinal Self Storage was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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SUBJECT: WATER EXTENSION AGREEMENT WITH TICON, INC. - PAGE ROAD CARWASH

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a Water Extension Agreement with Ticon, Inc. to serve Page Road Carwash was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: SEWER EXTENSION AGREEMENT WITH RICHARD F. JOHNSON, INDIVIDUAL - 106 AND 108 E. ROCKWAY STREET

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a Sewer Extension Agreement with Richard F. Johnson, Individual to serve 106 and 108 E. Rockway Street was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: CITY OF DURHAM GRANT PROJECT ORDINANCE EEOC COMPLIANCE FUNDING FOR FY 2002-2003

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to adopt the "City of Durham Grant Project Ordinance EEOC Compliance Funding for FY 2002-2003" was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12880

SUBJECT: WORKFORCE INVESTMENT ACT ADULT AND DISLOCATED WORKER SERVICES WITH THE COUNTY OF DURHAM DEPARTMENT OF SOCIAL SERVICES - DANIEL C. HUDGINS

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a contract with Daniel C. Hudgins, Director, on behalf of the County of Durham Department of Social Services in the amount of \$396,404 for the provision of Employment and Training Services to adult and dislocated residents of Durham; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was

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approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: SUB-RECIPIENT AGREEMENT - CAARE, INC. - JOB COUNSELING AND TRAINING FOR HIV/AIDS CLIENTS

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a Sub-recipient Agreement with CAARE, Inc. to provide job counseling and training to 36 HIV/AIDS infected clients in an amount not to exceed \$35,000 from CDBG funds; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: SUB-RECIPIENT AGREEMENT-GOOD WORKS, INC. FOR BUILDING YOUR BUSINESS COURSES

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a Sub-recipient Agreement with Good Works, Inc. to conduct four (4) sets of "Building Your Business" courses, and four (4) sets of "Construyendo Su Negocio" courses to assist one hundred low-moderate income Durham residents in an amount not to exceed \$75,000 from CDBG funds; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: SUB-RECIPIENT AGREEMENT FOR FY 2003-2004 WITH THE DEPARTMENT OF SOCIAL SERVICES FOR NORTH EAST CENTRAL DURHAM (NECD) CASE MANAGER POSITION

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a performance based sub-recipient agreement with the Department of Social Services in an amount not to exceed the maximum sum of \$28,000 from Community Development Block Grant Funds to provide assistance to the residents of North East Central Durham; and

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To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: SUB-RECIPIENT AGREEMENT-YOUTH LIFE FOUNDATION OF THE TRIANGLE - EDUCATIONAL ENRICHMENT PROGRAMS AT CORNWALLIS ROAD PUBLIC HOUSING

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a performance based sub-recipient agreement with Youth Life Foundation of the Triangle for funding to support educational enrichment programs for 65 youths at the Cornwallis Road Public Housing Development in an amount not to exceed \$50,000 from CDBG funds; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: CONSTRUCTION CONTRACT FOR COOK ROAD PARK - VALLEY CREST LANDSCAPE DEVELOPMENT, INC.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a contract with Valley Crest Landscape Development, Inc. in the amount of \$748,399, with a contingency fund in the amount of \$74,840, for a total cost of \$823,239; and

To authorize the City Manager, or her designee, to negotiate and execute change orders for the project provided that the cost does not exceed \$72,840 and the total cost of the project does not exceed \$823,239; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

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**SUBJECT: PROPOSED EMINENT DOMAIN PROCEEDING FOR THE
WIDENING OF ARCHDALE DRIVE – FREDERICK D. AND
JANETTE E. WARSAW – 25 ST. ANDREWS COURT**

To find that it is necessary, in the public interest, and for the public use and benefit to condemn the following interests in the property of Frederick D. Warsaw and wife, Janette E. Warsaw identified as: 25 St. Andrews Court, TM 415 -04-007, PIN 0810-16-83-9832: temporary construction easement of 2,656 SF, permanent drainage easement of 1,373 SF, and permanent street easement of 687 SF, all as shown on the Final Plat Showing Easement and Right-of-Way Required for Archdale Drive Widening, Sheet 3 of 3, dated August 24, 2000, prepared by Donald F. Greeley, PLS No. L-3472; and

To authorize the City Attorney to initiate condemnation proceedings for that purpose, with a deposit into court in the amount of \$15, 750 as the City's estimate of just compensation and to ratify the mailing of 30-day notices.

Note: This item was approved at the 10/23/03 Work Session with a vote of 5/0.

SUBJECT: COMPUTER LEASE AGREEMENT – EPLUS GROUP, INC.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to execute a three (3) year computer lease agreement with ePlus Group, Inc. for 73 desktop computers, 72 laptops, and 62 mobile data computers in the amount of \$105,334.68 annually for three (3) years or a total of \$316,004.04; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: CONTRACT AMENDMENT – MICROSOFT ENTERPRISE
SOFTWARE LICENSE AGREEMENT TRUE-UP REPORT FOR
FY 2003 - INSIGHT DIRECT WORLDWIDE, INC.**

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to amend the Microsoft Enterprise Agreement contract with Insight Direct Worldwide, Inc. in the amount of \$14,616 to cover the cost of 14 additional software licenses for the Police Department; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore

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Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: BARNES AVENUE UPDATE

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive a report on Barnes Avenue Update was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: CACH-COLLIER, ALSTON AVENUE AND CHENAULT & HOMEWOOD – LEVERN HARPER

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive comments from LeVern Harper on a construction project in the community and to refer this item back to the administration was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MADISON WHITFIELD - CONSTRUCTION PROBLEMS ON FAIRLAWN AND CARVER STREET

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive comments from Madison Whitfield on construction problems on Fairlawn and Carver Street and to refer this item back to the administration to provide additional information at the November 6, 2003 City Council Work Session was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: MELVIN L. WHITLEY

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive comments from Melvin L. Whitley to re-evaluate the increase of water and sewer services and to refer this item to the November 6, 2003 City Council Work Session was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: CANARY COALITION

To adopt a "Resolution to urge NC Attorney General Roy Cooper to file a petition for review against the EPA's "Routine Maintenance" Rule Change in the New Source Review Provision of the Clean Air Act and to urge the entire North Carolina

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congressional delegation to co-sponsor legislation in Congress to repeal the EPA's "Routine Maintenance" ruling".

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to refer this item back to the administration was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: ZURI AND ASSOCIATES, INC. REQUEST LOAN PREPAYMENT

To authorize the City Manager to accept as satisfaction for the existing note and loan agreement with Zuri and Associates, Inc. which financed Phoenix Crossing shopping center, payment of \$303,000 and the execution of a new forgivable loan in the amount of \$100,000, with terms as stated in the agenda memorandum; and

To authorize the City Manager to execute the \$100,000 note and such other documents as may be required to accomplish the refinancing as represented in the agenda memorandum.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to refer this item to the November 17, 2003 City Council Meeting was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: THOMAS SHEPPARD

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive comments from Thomas Sheppard requesting additional funding for the Parks and Recreation's budget to be used specifically for the outreach and schools program divisions was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

[ITEMS PULLED FROM CONSENT AGENDA]

SUBJECT: MAJOR SITE PLAN – ALLENDOWN RETAIL (D03-298)

Tony Tate made comments on this item.

MOTION Mayor Pro Tempore Cheek seconded by Council Member Stith to approve a site plan for 'Allendown Retail', submitted by Tony Tate Landscape Architecture P.A., on behalf of Doug Lee, for an 8,000 square foot retail building on a 0.98 acre site zoned NC and F/J-B, located at the northwest corner of Allendown and Meadow Drives, Tax Reference 541-02-006,006B and PIN 0738-03-12-0205/0738-03-02-9185, Tax Parcel ID

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153796 and 153800, City Atlas Page 51, Block A-3 was approved at 7:22 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: WORKFORCE INVESTMENT ACT ADULT AND DISLOCATED
WORKER SERVICES WITH THE EMPLOYMENT SECURITY
COMMISSION**

Mayor Pro Tempore Cheek raised a concern regarding the contract period urging staff to make sure contracts to be executed are ready by the time they need to be executed, voted on and signed off on in a timely basis.

MOTION by Council Member Clement seconded by Council Member Stith to authorize the City Manager to execute a contract with the Employment Security Commission of North Carolina in the amount of \$438,342 for the provision of employment and training services to adult and dislocated Durham residents; and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement was approved at 7:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: FACADE GRANT PROGRAM AND GUIDELINES

Mayor Pro Tempore Check asked the administration to advertise this item as broadly as possible.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to begin operation of the Facade Grant Program using the program guidelines established was approved at 7:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

**SUBJECT: LEASE OF 106 MORRIS STREET TO SEBBAT ZERE, D/B/A
SELAM CONVENIENCE STORE (PORTION OF TAX MAP 30-06-
002 - PIN #0821-08-87-5827 - PARCEL ID #103053)**

To approve the lease for the property at 106 Morris Street between the City of Durham and Sebbat Zere, d/b/a Selam Convenience Store, and

To authorize the City Manager to modify the agreement before execution provided that modifications do not increase the dollar amount of the agreement, and the modifications are consistent with the general intent of the existing version of the agreement.

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Mayor Pro Tempore Cheek asked staff how much is being paid on a monthly basis for this property.

General Services Manager Mark Greenspan noted this information will be provided at the Work Session.

Note: This item was referred to the November 6, 2003 Work Session.

**SUBJECT: MUNICIPAL AGREEMENT AND CAPITAL PROJECT
ORDINANCE FOR NC 147 BICYCLE/PEDESTRIAN BRIDGE –
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
(NCDOT)**

Mayor Pro Tempore Cheek expressed a concern with the provision outlined in section 9. (M) of the agreement that deals with the work being completed within two years after execution of agreement, and, if not, the unexpected balance of funds may be recalled by NCDOT.

Diane Catotti, representing Burton School PTA, expressed past crime and safety issues at the old bridge. She requested 24-hour lighting and increased visibility, including a transparent design at the bridge, adequate police surveillance and security.

Bob Radcliffe, representing Burton School PTA, expressed safety concerns.

Thad Howard, of DOST, read a statement in support of bridge.

Mayor Bell asked staff about the additional lighting and requested the administration to bring back to Council schematics of bridge.

Beth Timson, of the Parks & Recreation Department, noted lights will be located at both ends of the bridge and across the bridge which will become a part of the Parks & Recreation budget. Also, she noted there will be another neighborhood meeting to address concerns once designer has been selected.

Council Member Clement spoke in support of police presence in this area.

City Manager Conner noted at the appropriate time, Council would receive a recommendation from the Police Department in terms of staffing and safety measures that would be needed.

Council Member Clement requested reports on what safety factors are being enhanced.

Thad Howard asked that the demolition of this bridge go concurrently with the design process and replacement.

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MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to authorize the City Manager to enter into a Municipal Agreement with the N. C. Department of Transportation for the NC 147 Bicycle/Pedestrian bridge project (U-4445); and

To adopt an ordinance amending the general capital project ordinance, as amended, the same being ordinance #12816, NC 147 Bicycle and Pedestrian Bridge, authorizing the expenditure of \$2,000,000 for the City's reimbursable project cost was approved at 7:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12881

SUBJECT: SMALL BUSINESS LOAN PROGRAM UPDATE

Council Member Best expressed a concern that loans were delinquent for 60 – 120 days and Council did not know that this was happening. He asked the City Manager if there is anything stated in the policy if a business is late 60 days the representative from Mutual Community Savings Bank will notify the administration.

City Manager Conner noted the provision in the contract is not specific regarding delinquent loans; therefore, she has drafted a letter to be sent to Mutual Community Savings strengthening what they should do when a loan is 60 to 90 days delinquent.

MOTION by Council Member Best seconded by Council Member Stith to receive a report on the Small Business Loan Program Update was approved at 7:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: ECONOMIC DEVELOPMENT LOAN PROGRAMS

To rescind the action taken by the City Council on October 20, 2003 on Agenda Item #12 regarding the establishment of the Commercial Revitalization Loan Program and the Opportunity Loan Program and the approval of Mutual Community Savings and Loan to provide loan origination and to act as a servicing agent for those programs.

To authorize the City Manager to begin operation of the Opportunity Loan Program through the Office of Economic and Employment Development; and

To authorize the City Manager to begin operation of the Downtown and Commercial Revitalization Loan Program through the Office of Economic and Employment Development.

Mayor Bell excused himself from the discussion on this item.

Alan DeLisle, of Economic Development, made comments on this item.

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Steve Hopkins, of 920-B Wadesboro Street, expressed a concern that this program will not work for his neighborhood.

City Attorney Blinder noted he made a disclosure statement on behalf of Mayor Bell and Council Member Clement at the Work Session regarding their relationships with Mutual Community Savings Bank. Since that time, he noted Council Member Clement has provided additional information that he owns 25 shares of stock at Mutual, which represents less than 1% of the company.

Council Member Best noted that he would be voting against this item stating there are plenty of financial institutions that can handle these loans.

Council held discussion on source of funding, help for persons with credit issues and accountability.

City Manager Conner informed Council that staff will come back at a later date with a recommendation on the servicing agency for these loans.

To rescind the action taken by the City Council on October 20, 2003 on Agenda Item #12 regarding the establishment of the Commercial Revitalization Loan Program and the Opportunity Loan Program and the approval of Mutual Community Savings and Loan to provide loan origination and to act as a servicing agent for those programs. **[This motion was approved by a vote 5/0 at the October 23, 2003 Work Session]**

MOTION by Council Member Stith seconded by Council Member Edwards to authorize the City Manager to begin operation of the Opportunity Loan Program through the Office of Economic and Employment Development; and

To authorize the City Manager to begin operation of the Downtown and Commercial Revitalization Loan Program through the Office of Economic and Employment Development was approved at 8:09 p.m. by the following vote: Ayes: Mayor Pro Tempore Cheek and Council Members Cole-McFadden, Edwards and Stith. Noes: Council Member Best. Abstention: Mayor Bell and Council Member Clement. Absent: None.

SUBJECT: FEMA CONSULTANT CONTRACT

To authorize the City Manager to negotiate and execute a personal services contract with Mr. Ed Counts of Counts & Associates for FEMA consulting services in an amount not to exceed \$2100.

Note: *This item was approved at the 10/23/03 Work Session with a vote of 5/0.*

Assistant City Manager Ted Voorhees gave an update on his visit to Washington, DC concerning this item.

November 3, 2003

MOTION by Council Member Cole-McFadden seconded by Council Member Clement to receive a report was approved at 8:13 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA]

SUBJECT: DURHAM HOUSING AUTHORITY - APPOINTMENT

To appoint a citizen to fill one (1) vacancy on the Durham Housing Authority with a term expiring on September 28, 2008.

Steve Hopkins, of 920-B Wadesboro Street, spoke in support of Council appointing another resident to the Durham Housing Authority Board. He urged Council to change the General Statutes to at least two residents instead of one.

Council Member Best noted at the last Work Session he requested an item be added to the November 20, 2003 Work Session agenda that Council would review amending the composition to dedicating certain seats for certain areas for the Durham Housing Authority. He asked Council and the public to provide suggestions.

Council Member Clement spoke in support of categories for the membership on the DHA Board. He urged Council to do this in consultation with management and the Durham Housing Authority Board to ascertain what is needed to best serve the residents of public housing. Also, he asked that this item be deferred until this process has been concluded.

Several Council Members spoke in opposition to delaying this item.

Council Member Clement spoke in support of appointing Charles F. Chapman to the DHA Board.

Note: Council Action was taken on this item later in the meeting.

[GENERAL BUSINESS AGENDA - PUBLIC HEARINGS]

SUBJECT: ORDERING IMPROVEMENT UNDER E.A.A. - SEWER MAIN ON SOUTHGATE STREET

Lee Murphy, of the Public Works Department, made comments on this item.

Mayor Bell opened the public hearing.

Steve Hopkins spoke in support of this item noting it is very much needed in the area and requested a detailed plan for street improvements [sidewalks, etc.]

Mayor Bell declared the public hearing closed.

November 3, 2003

MOTION by Council Member Stith seconded by Council Member Edwards to receive public comments; and

To adopt a resolution ordering a Sewer Main on Southgate Street from the West property line of Tax Map 139-06-15 to the west property line of Tax Map 139-06-17 was approved at 8:27 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: ORDERING PETITIONED IMPROVEMENT - WATER MAIN ON BELGREEN ROAD

Lee Murphy, of the Public Works Department, made comments on this item.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Clement seconded by Council Member Stith to receive public comments; and

To adopt a resolution ordering a Water Main on Belgreen Road from Fayetteville Road east to end of maintenance at Tax Map 553-2-21A was approved at 8:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: ORDERING PETITIONED IMPROVEMENT - SEWER MAIN ON BELGREEN ROAD

Lee Murphy, of the Public Works Department, made comments on this item.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive public comments; and

To adopt a resolution ordering a Sewer Main on Belgreen Road from Fayetteville Road east to end of maintenance at Tax Map 553-2-21A was approved at 8:28 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

November 3, 2003

SUBJECT: ORDERING PETITIONED IMPROVEMENTS - CURB, GUTTER AND PAVING AND WATER AND SEWER LATERALS ON BELGREEN ROAD

Lee Murphy, of the Public Works Department, made comments on this item.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive public comments; and

To adopt a resolution ordering Curb, Gutter and Paving and Water and Sewer Laterals on Belgreen Road from Fayetteville Road east to end of maintenance at Tax Map 553-2-21A was approved at 8:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT INCENTIVE AGREEMENT BETWEEN PST PRODUCTS, LLC D/B/A/ PER-SE TECHNOLOGIES AND THE CITY OF DURHAM REGARDING REIMBURSEMENT FOR ECONOMIC DEVELOPMENT ACTIVITIES

Trisha Gensic, of Economic Development, gave an overview of the revised contract.

Council Member Cole-McFadden requested Per-Se Technologies to provide workforce demographics on Thursday at the Work Session.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard.

Steve Hopkins requested demographics of community development area, additional information about the program and noted the public needs to know when jobs are coming to the community.

Thomas Sheppard, of 1419 Sedgefield Street, expressed a concern that 110 jobs showed up in Durham and nobody knew about it.

Paulette Wilder, of Per-Se Technologies, clarified that the jobs were moved from the Chapel Hill Office (75) and 50 positions came to Durham when the San Jose, California office was closed. She noted all positions are posted with the Employment Security Commission.

Mayor Bell declared the public hearing closed.

November 3, 2003

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Best to receive public comments; and

To authorize the City Manager to execute this incentive agreement with PST Products, LLC d/b/a Per-Se Technologies, to provide a maximum of \$156,880 in economic development incentives based on job retention of 110 employees over a five-year period in a Community Development Area was approved at 8:43 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: INCENTIVE AGREEMENT BETWEEN MEASUREMENT INCORPORATED AND THE CITY OF DURHAM REGARDING REIMBURSEMENT FOR ECONOMIC DEVELOPMENT ACTIVITIES

Trisha Gensic, of Economic Development, made comments on this item giving an overview of contract and incentive amount.

Mayor Bell opened the public hearing.

Council Member Cole-McFadden requested workforce demographics for Measurement, Inc. be provided at the November 6, 2003 Work Session.

Steve Hopkins, of 920-B Wadesboro Street, spoke in support of this item

Thomas Sheppard, of 1419 Sedgefield Street, spoke in support of this item.

Mayor Bell declared the public hearing closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Stith to receive public comments; and

To authorize the City Manager to execute an incentive agreement with Measurement Incorporated to provide a total not to exceed \$280,000 in incentives based on their investment and employment growth in a Community Development Area was approved at 8:50 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: LAND USE PLAN AMENDMENT – MILLENNIUM, MT. MORIAH ROAD (A02-06) – BILL RIPLEY – NORTHEAST QUADRANT OF INTERSECTION OF MT. MORIAH ROAD AND DURHAM-CHAPEL HILL BOULEVARD

To receive public comments on Plan Amendment (A02-06 – Millennium, Mt. Moriah Road); and

November 3, 2003

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Southwest Durham Plan from Mixed Use to Commercial.

Planning Department Recommendation: Approval

Planning Commission Recommendation: Denial (10-1)

City/County Planning Director Frank Duke briefed Council on the staff report. He noted the proposal is consistent with the Southwest Durham Plan, staff recommended approval and the Planning Commission recommended denial due to environmental issues.

Mayor Bell opened the public hearing.

Bill Ripley, representing applicant, spoke in support of the plan amendment.

Diane Catotti, of 4147 Deepwood Circle, encouraged Council to maintain the mixed-use designation.

Bob Blackwood noted his family and others have been on this land for 1,000 years asking Council to address the needs of the people who live on this land.

Hildegard Ryals, of 1620 University Drive, read a statement noting the road configuration complicates the uses of this site and proposal should be a part of the comprehensive mixed-use site and development plan for the entire 150 acres.

Mayor Bell declared the public hearing closed.

Mayor Pro Tempore Cheek noted this request is for a plan amendment and not a rezoning.

Council Member Stith made comments on the environmental and transportation issues.

City/County Planning Director Frank Duke made comments on the environmental sensitive sites all around this parcel and the Durham County Inventory. Also, he noted the best way to protect those sensitive sites would be through the development plan.

MOTION by Council Member Clement seconded by Council Member Best to receive public comments on Plan Amendment (A02-06 – Millennium, Mt. Moriah Road); and

To adopt a resolution to change the Land Use designation on the Future Land Use Map of the Southwest Durham Plan from Mixed Use to Commercial was approved at 9:08 p.m. by the following vote: Ayes: Mayor Pro Tempore Cheek and Council Members Best, Clement and Stith. Noes: Mayor Bell and Council Members Cole-McFadden and Edwards. Absent: None.

Resolution #9051

November 3, 2003

SUBJECT: INITIAL ZONING - RAVENSTONE (P03-10) – SHERRON ROAD VENTURES, LLC; LAKES TO LINKS II, LLC AND RL HORVATH ASSOCIATES, INC. – 60.114 ACRES AT THE INTERSECTION OF WAKE FOREST HIGHWAY AND SHERRON ROAD

To receive public comments on initial zoning Case P03-10 (Ravenstone); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish NC (D), R-10(D), SC(D), GC(D); F/J-B zoning for the property described in the attached staff report.

City/County Planning Director Frank Duke briefed Council on the staff report.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Council Member Clement seconded by Council Member Best to receive public comments on initial zoning Case P03-10 (Ravenstone); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish NC (D), R-10(D), SC(D), GC(D); F/J-B zoning for the property described in the attached staff report was approved at 9:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING – OAKHURST SUBDIVISION, PHASE 2 (P03-43) – D. R. HORTON – 20.88 ACRES ON THE WEST SIDE OF HERNDON ROAD, SOUTH OF STINHURST

To receive public comments on initial zoning Case P03-43 (Oakhurst Subdivision, Phase 2); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish PDR 2.27; F/J-B zoning for the property described in the attached staff report.

City/County Planning Director Frank Duke briefed Council on the staff report.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Clement to receive public comments on initial zoning Case P03-43 (Oakhurst Subdivision, Phase 2); and

November 3, 2003

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish PDR 2.27; F/J-B zoning for the property described in the attached staff report was approved at 9:10 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: INITIAL ZONING – AGAPE CORNER SCHOOL (P03-44) – AGAPE CORNER – 10.078 ACRES ON THE EAST SIDE OF REDWOOD ROAD, BETWEEN FLETCHERS CHAPEL AND CHEEK ROAD

To receive public comments on initial zoning Case P03-44 (Agape Corner School); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD; F/J-B zoning for the property described in the attached staff report.

City/County Planning Director Frank Duke briefed Council on the staff report.

As this was the time and place set for the public hearing, anyone interested was given the opportunity to be heard. There being no objections and/or allegations, the public hearing was declared closed.

MOTION by Mayor Pro Tempore Cheek seconded by Council Member Edwards to receive public comments on initial zoning Case P03-44 (Agape Corner School); and

To adopt an ordinance amending the Zoning Ordinance the same being Chapter 24 of the Durham City Code, to establish RD; F/J-B zoning for the property described in the attached staff report was approved at 9:11 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: TIME WARNER CABLE TELEVISION FRANCHISE AGREEMENT EXTENSION

Technology Solutions Director John Bjurman made comments on this item commenting on the continued negotiations.

Council Member Clement asked staff if there are discussions relating to the request that the downtown area be equipped for cable service.

John Bjurman replied yes.

Council Member Clement requested the administration to provide quarterly progress reports to Council on concluding the franchise agreement.

November 3, 2003

Mayor Bell opened the public hearing.

Rev. James Vaughan, of 3206 Cole Mill Road, made comments in support of cable extension with Time Warner.

Mayor Bell declared the public hearing closed.

MOTION by Council Member Clement seconded by Council Member Best to receive public comments; and

To adopt an ordinance to extend the cable television franchise agreement through October 31, 2004, granted by Ordinance Number 9172, as amended by Ordinance Numbers 12106, 12274, 12498 and 12679; and to provide quarterly reports to the City Council was approved at 9:18 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

Ordinance #12882

SUBJECT: ZONING TEXT AMENDMENT – STANDARDS FOR WIRELESS COMMUNICATION FACILITIES (TC03-11)

To receive public comments on Zoning Text Amendment TC03-11 (Standards for Wireless Communication Facilities); and

To adopt an ordinance amending the Zoning Ordinance to incorporate the changes proposed by TC03-11.

Planning Department Recommendation: Approval

Zoning Committee Recommendation and Vote: Approval 7-0

Mayor Bell opened the public hearing.

MOTION by Council Member Clement seconded by Mayor Pro Tempore Cheek to continue the public hearing to the December 15, 2003 City Council Meeting was approved at 9:20 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cheek and Council Members Best, Clement, Cole-McFadden, Edwards and Stith. Noes: None. Absent: None.

SUBJECT: DURHAM HOUSING AUTHORITY - APPOINTMENT

To appoint a citizen to fill one (1) vacancy on the Durham Housing Authority with a term expiring on September 28, 2008.

November 3, 2003

By ballot, the City Council appointed Isaac A. Robinson to the Durham Housing Authority with a term to expire on September 28, 2008. Mr. Robinson received five votes [Mayor Bell, Mayor Pro Tempore Cheek and Council Members Cole-McFadden, Edwards and Stith.]

There being no further business to come before the City Council, the meeting was adjourned at 9:21 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk